

IN THE MATTER OF THE COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
INDALEX LIMITED et al

Court File No. CV-09-8122-00CL

the Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

MOTION RECORD
(Returnable June 12, 2009)

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street, Suite 2800
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Line Rogers LSUC#: 43562N
Tel: (416) 863-4168

Katherine McEachern LSUC#: 38345M
Tel: (416) 863-2566

Jackie Moher LSUC#: 53166V
Tel: (416) 863-3174
Fax: (416) 863-2653

Lawyers for the Applicants

June 12/09

Order to go in the form provided.

Key reasons to follow.

[Signature]

June 15/09

L. Rogers

J. Moher for Indalex

A. J. Taylor for FTI Toronto

G. Moysa for J.P. Tsiga

A. Hahn for Certain Parties

*G. Filizyan for [Signature]
Secured Priority Secured Creditors*

*J. Laskin for Co-Solidators for the
Unsecured Creditors Committee.*

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These are the reasons in respect of my endorsement of June 12/09.

The matter was first served with the Applicants this morning. Counsel to the Applicant and counsel to the Plaintiff both indicated that additional availability on the DIO Faculty is required (1) that overdue payables can be satisfied; (2) to support ongoing operations and (3) to support the marketing process.

It is preferable, of course, ~~for~~ ^{for} ~~the~~ ~~Applicant's~~ ~~proper~~ ~~order~~ ~~to~~ ~~be~~ ~~given~~. However, this was not done in this case. I have been satisfied that urgency has been established and no party is opposed to the matter.

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In the face of no alternative suggestion or proposal - uncertainty would again prevail.

At this stage of the CCAA proceedings - ~~without~~ additional uncertainty does not represent a positive development.

Having reviewed the record & having read submissions I am satisfied that the requested relief is necessary and appropriate.

With respect to the returns, ~~the~~ counsel to the Applicants made the point that the amendment increases the immediacy of funds. It is hoped that this advance will improve the position of all stakeholders.

~~to~~ Counsel to the returns, subsequently ^{having had the opportunity, during a recess, to discuss this matter with counsel to the Applicants and his clients,} advised that A's clients were no longer insisting on a reservation of rights

With respect to the WTEHDs, I write ⁵
that there is still an issue that remains
(This is also an issue with the UCC)
outstanding, namely states to appear. This
issue need not be addressed today
but given the cross-border relationship
between the Chapter 11 proceedings and
the CCAH proceedings, it is an issue
that should be resolved sooner or
removed to later.

For the purposes of this matter, counsel to
the WTEHDs did advise that there
is an ongoing challenge in the Chapter 11
proceedings relating to the priority of
secured parties. Counsel also advised
that his clients have reserved their
rights on this issue in the Chapter 11
proceedings.

The NTA's⁶ are, of course, in a position to raise the issue in the Upton II proceedings. Nothing in this matter today should be taken as impairing the ability of the NTA's to continue with their challenge in the Upton II proceedings, or in these proceedings.

However, it is also clear and has been acknowledged by counsel to the NTA's that his clients are not claiming priority over the increase in the DIP Facility in these proceedings. On this point there is no reservation of rights. I also note for the record that counsel to the U.C.C. was not

expressed to the relief and that counsel⁷⁹⁷
 to J. P. Hogan supports the request
 of the Applicants and that the
 Monitor recommended that the relief
 be granted.

I am satisfied that it is appropriate
 to grant the requested relief.

Order to go in the form presented.

subject to
 edit it.
 typed

[Handwritten signature]